

**Proposed Committee Comments to Amendments to Rule 32,**  
**Ala. R. Jud. Admin.**

Committee comments to the amendment to Rule 32  
effective \_\_\_\_\_, 202\_\_.

Rule 32 was amended effective \_\_\_\_, 202\_\_, to provide a method of calculating child support in cases where a court order provides for shared physical custody of child(ren) with each parent equally (or approximately equally).

Rule 32(C) was amended to add subparagraph (7) which provides for the Shared 50% Physical Custody Adjustment. Prior to this Amendment, Rule 32 contained no provision for calculating child support in cases involving shared physical custody. Rather, shared physical custody was a reason for deviating from the Rule 32 guidelines support amount pursuant to Subsection (A)(1)(a) of Rule 32.

Subparagraph (7)(a) defines when the Shared Physical Custody Adjustment should be applied, namely when a written court order provides for 50% (or approximately 50%) physical custody of a child with each parent. The Shared Physical Custody Adjustment is to be applied when shared physical custody is provided by an order (whether an order incorporates an agreement of the parties or when a court orders such an arrangement after a trial). It is not to be applied by informal agreement of the parties that has not been adopted by a court order. The labeling of the custody arrangement by the parties or the court is not determinative of whether to apply the Shared Physical Custody Adjustment. Rather, the provision in a court order of equal (or approximately equal) physical custody is the operative fact.

Subparagraph (7)(b) provides for the use of a

separate Worksheet (Form CS-42-S) when applying the Shared Physical Custody Adjustment, and explains that a 150% multiplier is applied to the basic child-support obligation when calculating child support in these cases. The multiplier is used to account for the fact that it costs at least 50% more to raise a child in two households than in one household because of duplicated expenses, such as housing and transportation costs.

Subparagraph (7)(c) allows a court that has applied the Shared Physical Custody Adjustment to modify child support to remove that Adjustment in cases where a parent fails to exercise the timesharing they were granted in the court order for at least 14 days in the 12 months preceding the filing of a petition to modify child support with the court. The modification of child support may be ordered without regard to whether custody is modified.

The attorney fees and costs allowed under subparagraph (7)(d) is to be awarded at the court's discretion, but only in those cases where the court finds that a parent's failure to exercise the timesharing awarded to him or her for at least 14 days in the 12 months preceding the filing of the petition for child support modification was willful.